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C O N F I D E N T I A L SECTION 01 OF 03 MANILA 001618

SIPDIS

STATE FOR EAP/PMBS, EAP/RSP - SU, G/TIP - NORIN, DRL

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TAGS: [PGOV](#) [PHUM](#) [KWMN](#) [KCRM](#) [ELAB](#) [KCOR](#) [RP](#) [JA](#)

SUBJECT: TIP UPDATE

REF: A. MANILA 1134

[B](#). MANILA 971

[C](#). MANILA 675

[D](#). MANILA 607

Classified By: Deputy Pol/C Joseph Novak for reasons 1.4 (b) and (d).

[1](#). (C) Summary: Mission has underscored to the GRP the possibility that the U.S. might place the Philippines on the TIP Tier 3 list due to lack of convictions and allegations of official corruption, among other reasons. We have repeatedly requested comprehensive statistics about prosecutions and convictions, but have not yet received additional solid information. According to GRP officials, the GRP is working on new ways to assist prosecutions, including by assigning "special prosecutors" to some regions where trafficking is particularly severe. Despite new and ongoing TIP prosecutions, the glacial speed of the Philippines' legal system makes convictions under the 2003 TIP law unlikely until at least next year. Mission has been unable to uncover hard evidence on allegations of TIP-related corruption by Filipino diplomats in Japan. There is growing concern that designation as a Tier 3 country would undercut anti-TIP activists within the GRP, undermine new efforts, and damage cooperation with the USG. End Summary.

Sounding the Warnings

[2](#). (C) Mission has underscored to the GRP the possibility that the U.S. might place the Philippines on Tier 3 this year due primarily to lack of convictions as well as allegations of official corruption. Pol/C met on March 30 with President Arroyo's General Legal Counsel (and former Acting Secretary of Justice) Maria Mercedes N. Gutierrez, who also serves as the GRP's anti-corruption czar and is personally committed to anti-TIP efforts. Gutierrez expressed surprise and concern at the lack of available statistics and promised immediately to issue a directive for concerned agencies to assemble necessary documentation. (As of April 7, however, we have not received new information -- see below.) During an April 1 meeting, Dep Pol/C discussed TIP with Philippine Gaming and Amusement Commission (PAGCOR) Chairman Efraim Genuino, a close associate of President Arroyo's. Genuino, who said he has made four recent trips to Japan to discuss TIP issues at the behest of the President, said that he understood the gravity of the situation and that the GRP was committed to countering TIP, gaining convictions, and cooperating with the U.S. in any way in order to avoid being placed on Tier 3. Dep Pol/C also met with opposition Senator Maria Ana Consuelo "Jamby" Madrigal, a staunch anti-TIP activist, on April 4 to discuss TIP. Madrigal promised to continue to urge the GRP to do more.

Prosecution Update

[3](#). (SBU) Justice Attache and poloff met on March 29 with Robert Larga, the Department of Justice (DOJ) official who heads the secretariat of the GRP's Inter-Agency Council Against Trafficking (IACAT). Larga said that there were 19 cases under prosecution and 28 cases under investigation based on the 2003 Anti-Trafficking Law (R.A. 9208) as of late last year, but that there had been no convictions yet. He could not confirm whether these figures were comprehensive, nor could he provide more current figures. According to DOJ and the National Bureau of Investigation (NBI) officials, additional cases are under investigation and they expect soon to file more charges under R.A. 9208.

[4](#). (SBU) However, the International Justice Mission (IJM), a well-known international NGO working on TIP cases (and the recipient of a State Department grant here) and other contacts have confirmed only six known cases in prosecution under R.A. 9208. Officials predicted a court decision on at least one case -- People v. Tongco and Jerson -- some time in the next year. IJM also plans to prosecute another new case soon under R.A. 9208 related to eight TIP victims whom Visayan Forum Foundation (another State Department grantee here) rescued on March 3 at Batangas port, south of Manila. Police have already arrested a suspected trafficker. (Note: It is a unique feature of Philippine law that NGOs are

allowed to bring trafficking cases, with the permission of the DOJ. end note)

15. (SBU) The DOJ and the NBI have not yet been able to provide information on trafficking-related cases under prosecution based on other relevant laws, including: R.A. 7610, the Special Protection of Children Law; R.A. 8042, the Migrant Workers and Overseas Filipinos Law; R.A. 8043, the Inter-Country Adoption Law; and, R.A. 9231, the Anti-Child Labor Law. IJM has at least four cases in trial under R.A. 7610. IACAT's Larga told poloff that there had been 11 convictions for passport fraud in 2004 (R.A. 8239), but could not confirm whether these convictions were specifically linked with trafficking. He noted, however, that this crime often involves TIP.

GRP Moves to Assist Prosecutions

16. (SBU) According to Embassy contacts, the GRP plans additional institutional changes to assist TIP prosecutions. IACAT's Larga told poloff that the DOJ will designate "special prosecutors" dedicated to anti-TIP prosecutions at regional sites throughout the country where the trafficking problem is particularly severe. He said that DOJ had already identified these prosecutors, who are now undergoing training on R.A. 9208. In addition, the DOJ is developing a practical anti-TIP manual for all prosecutors nationwide fully to explain the provisions of R.A. 9208. Larga added that the DOJ will also issue instructions to prosecutors directing them to object to motions in court for dismissal of TIP-related cases when there seems to have been pressure placed on victims or witnesses by bribes or threats to recant their testimony.

"Report Card"

17. (SBU) In September 2004, G/TIP provided six recommendations to several GRP departments working on TIP issues to highlight how the GRP could show progress in combating trafficking. Current status of these:

-- Recommendation 1: Aggressively implement the new anti-trafficking law, leading to a discernible increase in investigations, arrests, prosecutions, and convictions of traffickers.

Assessment: See paras 3-5 above

-- Recommendation 2: Train police and immigration officials, judges, and elected officials on the new anti-trafficking law and provide information on how many officers received training and on how the GRP implements training in the field.

Assessment: As reviewed in ref B, hundreds of police, immigration officials, judges, and elected officials have been receiving training on TIP and the anti-trafficking law. NGOs and the GRP have been working together to implement this training nationwide.

-- Recommendation 3: Combine the separate case investigation processes at the DOJ and the NBI into a single dedicated team.

Assessment: There has been no apparent movement on this.

-- Recommendation 4: Increase the volume and speed of TIP trials by ensuring the exclusive focus of the dedicated team of four DOJ TIP prosecutors. Augment prosecution bandwidth by working with NGOs such as IJM.

Assessment: The four dedicated TIP prosecutors are burdened with other, non-TIP-related cases. The GRP is working effectively with IJM and other NGOs.

-- Recommendation 5: Develop a mechanism within the DOJ to report monthly case statistics and post the statistics on the Internet.

Assessment: As noted above, case statistics continue to be sketchy. The DOJ does not yet have in place a system to correlate case statistics every month or quarter from offices nationwide. According to IACAT's Larga, this mechanism should be in place later this year.

-- Recommendation 6: Tighten certification process for entertainers destined to countries where TIP is a problem.

Assessment: The Japanese government's tightened visa rules regarding Overseas Performing Artists (OPAs) -- which were implemented on March 15 -- obviated the previous requirement for GRP-issued Artist Record Books for travel to Japan. The GRP took the step of returning responsibility for issuing

ARB's to the Philippine Overseas Employment Agency (POEA) in September 2004 after reports of serious corruption at the Technical Education and Skills Development Authority (TESDA). The POEA's performance is reportedly an improvement over that of TESDA.

Allegations of Corruption

18. (C) Mission has asked contacts about allegations that Filipino diplomats in Tokyo and Osaka have pocketed money meant for use as a "bond" for the protection of OPAs employed in Japan. According to GRP regulations, the POEA requires each Japanese promoter to deposit USD 20,000 into an escrow account in a Philippine bank, channeling the money through the Philippine Embassy in Tokyo or the Consulate General in Osaka. (Note: This tracks with POEA's standard operating procedure requiring a deposit for most overseas contract workers, not just OPAs. end note) This money is to serve as an escrow bond against any potential claims the performer may file against the promoter or club owner, and is held in an account in the promoter's name in the Philippines until five years after the promoter concludes business. After five years, the promoter is free to withdraw the money and its interest, less any claims deducted for compensation. When there is a dispute between the performer and the employer that might involve compensation, the GRP's National Labor Relations Commission (NLRC), a quasi-judicial body, adjudicates the claim.

19. (C) According to DFA officials, such allegations remain unproven, and no Filipino diplomats have been disciplined or fired. The Japanese Embassy in Manila is aware of the allegations of corruption, but does not have any real evidence.

Comment

110. (C) GRP contacts continue to make all the right sounds about TIP and readily acknowledge the need for convictions. They note at the same time, however, that the Philippine legal system is notoriously slow, primarily due to the fact that trials are non-contiguous (i.e., trials proceed intermittently, interrupted by other pending cases). They have stressed the need for patience regarding convictions, especially given the relative newness of R.A. 9208. They appear to understand that the international community needs to see real progress in the fight against TIP. The GRP's designation of "special prosecutors" on a regional level for TIP, additional attempts to protect victim and witness testimony, and development of more comprehensive statistical databases will be welcome. There is growing concern, however, that designation as a Tier 3 country will undercut anti-TIP activists within the GRP, undermine interest in pursuing additional initiatives, and diminish the willingness of the GRP to cooperate with the USG on TIP issues, despite the GRP's clear opposition to TIP and uneven, but real, progress in anti-TIP efforts.
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